GOVERNMENT OF INDIA
LAW AND JUSTICE
LOK SABHA

UNSTARRED QUESTION NO:712
ANSWERED ON:03.12.2015
Law Commission Report
Galla Shri Jayadev;Kothapalli Smt. Geetha

Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether the Law Commission of India has submitted its report on "Early Childhood Development and Legal Entitlements";
(b) if so, the salient features of the recommendations made in the said report; and
(c) the time by which the Government is likely to implement the said recommendations?

Answer

ANSWER

MINISTER OF LAW AND JUSTICE
(SHRI D.V. SADANANDA GOWDA)

(a) : Yes Madam, the Law Commission of India has submitted its Report No. 259 on "Early Childhood Development and Legal Entitlements" on 27.08.2015.

(b) : The Law Commission of India vide its Report No. 259 has recommended the following:-

i. It is suggested that, as per the recommendation of the NCRWC, a new Article 24A be inserted to Part III of the Constitution to ensure that the child's right to basic care and assistance becomes an enforceable right. The Article should read as follows: "24A. Every child shall have the right to care and assistance in basic needs and protection from all forms of neglect, harm and exploitation"

ii. In order to extend the right to education to children in the under-6 age group as well, Article 21A of the Constitution should be amended to read as follows: "The State shall provide free and compulsory education to all children in such a manner as the State may by law determine."

iii. Similarly, it is recommended that the fundamental duty of the parent or guardian to provide education should not be applicable only to children between the ages of six and fourteen. Article 51 A(k) of the Constitution should be amended so that the duty is placed on every citizen "who is a parent or guardian to provide opportunities for education to his/her child or, as the case may be, ward under his/her care."

iv. Section 11 of the Right to Education Act should be made mandatory and should read as follows: "with a view to prepare children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, the appropriate Government shall make necessary arrangement for providing free pre-school education for such children."

v. It is suggested that the Maternity Benefit Act be amended in accordance with the forward looking provisions in the CCS Rules, whereby maternity benefits should be increased from twelve weeks to 180 days. Provision of maternity benefits should be made obligatory on the State and not left to the will of the employers and should cover all women, including women working in the unorganized sector.

vi. It is suggested that government formulates policy or guidelines laying down minimum specifications of paid maternity leave to women employed in private sector.

vii. In order to ensure proper emphasis on the promotion of early childhood development, especially keeping in view that the current approach towards ECD which is fragmented into different schemes and raises issues of lack universality in standards, monitoring and coordination (as pointed out in Chapter IV), it is suggested that a statutory authority or Council for Early Childhood Development ("the Council") be created. The Council may be composed of officials from the Ministry of Women & Child Development, Ministry of Human Resource Development, Ministry of Finance, Ministry of Labour and Ministry of Commerce & Industry and representatives from civil society active in the field of early childhood development, and other such members as may be specified. The powers and responsibilities of the Council should be specified by law. Similar Councils to be established at State Level as well. The Philippines' ECCD (Early Childhood Care and Development) Council may be looked at as an example and adapted to the Indian context.

viii. The Council must be made responsible for laying down minimum universal standards for quality of services, facilities and infrastructure to be put in place across all schemes and provisions relating to early childhood.

ix. Clear provision should be made in the law creating the Council for the allocation of budgetary resources by the Central for the Central Council and by the State for State Council.

x. With regard to Section 6 of NFSA, there is need for evolving guidelines or some methods for identification of children suffering from malnutrition and for referring such children to appropriate healthcare providers. It is suggested that some provision be brought so that the nutrition recommendations in Schedule II of the NFSA could be regularly revised in keeping with the latest scientific studies based on calorific value, age, sex and food items. The Council may be empowered to periodically commission such studies from the appropriate research institutes or organisations.

xi. Provision should be made for the training of teachers to provide pre-school education, and there should be a budgetary allocation to fund training programs for the same to ensure quality standards and a proper implementation of the best methods of promoting play and learning. Teachers imparting pre-school instruction should be considered at par with primary school teachers, and this should reflect in the terms and conditions of their employment. This institutional aspect is essential for ensuring that pre-school education be given sufficient importance.

xii. It is suggested that every child under six should have an unconditional right to crÃ¨che and day care provided, regulated and operated by the State, as found for example in the Act on Children's Day Care of 1973, Finland. The provision of crÃ¨ches should be made the responsibility of the State, not of the employer, especially in the unorganised sector.

(c) : The process of implementation of recommendations of Law Commission is undertaken by the concerned Ministries/Departments after due consultation with all stake holders.